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What's the Matter with Liberalism?
Reassessing Voting, Politics, and Ideology

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Abstract

The 2004 presidential election raised at least two questions for election law analysis. First, in contrast to the past several decades of low voter turnout, why were voters so motivated to go to the polls in 2004? Second, why did many voters who were part of the Democrats' traditional base vote in opposition to what was widely considered to be their economic self-interest? My argument is that the answer to these questions can be conjoined by reviving and reinvigorating a non-pejorative theory of ideology.

A revised theory of ideology recognizes the multiple levels on which ideologies – both political and legal – operate. Ideology encompasses not only possible voter distortion – the accusation typically hurled against one's opponent – but the motivations for one's own partisan beliefs. As such, ideology has a deeper, more positive characteristic: it can act to integrate an individual's or group's sense of identity.

In order for the present political and legal dynamics to be understood and changed, then, we must recapture the multiple characteristics of ideology, both as distortive and as constitutive and integrative. This revival of ideology is also ineluctable: it comports with the very way the mind is structured. Here I draw on not only theories of ideology but other work in the cognitive sciences. The divide is not between one political party's right reason and the other's distorted ideology but between two ideologies, with all their negative and positive components. I conclude by examining how political persuasion, change, and transformation are possible within this ideological framework. The Article assists the subtlety by which election law analysis investigates and assesses voter motivation.

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Introduction

The morning of November 2, 2004 – election day – dawned in the Cleveland area with the prospect of rain. By 6:30 a.m. I was on the street, ready to begin my day as a supervisor of Democratic designated challengers at the polls.¹ The Democratic challengers were assigned to individual polling precincts with the objective of trying to protect the right to vote of voters whose qualifications – for example, nationality – might be questioned by Republican challengers.² I was to supervise a group of nearly a dozen challengers in precincts in Cleveland's Ward 14, on the west side of the city.³

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¹ Although I teach at the University of Pittsburgh, I live in the Cleveland area, where my spouse teaches.

² The rights for designated challengers to enter polling precincts are provided under Ohio statute. *See* OHIO R.C. ANN. § 3505.21. During the week prior to the election, I had served as an active volunteer in the effort to set up and organize the Democratic designated challenger program. Of particular concern for our challenger program was the expectation that Republican challengers would target precincts in heavily minority areas, which traditionally vote Democratic. The Republican challenges could intimidate voters and create voting delay, both potentially leading voters to leave the polls without voting. *See Preserving Democracy: What Went Wrong in Ohio. Status Report of the House Judiciary Committee Democratic Staff*, Jan. 5, 2005, at 43-47 [hereinafter *The Conyers Report*] (available at www.house.gov/judiciary_democrats/ohiostatusrept1505.pdf) (citing evidence of these tactics). This Report was initiated by Representative John Conyers, Jr., the Ranking Democrat on the House Judiciary Committee. *See id.* at 4. The Report is now available in book form. *See* WHAT WENT WRONG IN OHIO: THE CONYERS REPORT ON THE 2004 PRESIDENTIAL ELECTION (Anita Miller ed., 2005).

³ *See* www.clevelandcitycouncil.org/office/ward14.pdf (providing ward map, including

The day was a long and eventful one. We were on the job from the time the polls opened at 6:30 until they closed at 7:30 that evening.⁴ The rain came, but, at least in Ward 14, the Republican challengers did not.⁵ Instead, the Democratic challengers and I tried to assist pollworkers' efforts to handle the very high turnout. Because of a state requirement that voters had to vote in the precinct in which they resided in order for their vote to be counted,⁶ several challengers also spent hours on the telephone contacting the County Board of Elections to try to determine the correct polling places for voters not listed on the voting lists at the precincts they went to. Challengers as well spent a great deal of time assisting poll workers in helping voters fill out the complicated forms for provisional ballots, designed for voters who were certain they were voting in their home precinct but were for some reason – for example, a recent move – not listed in the precinct voting register.⁷

Many questions have been raised about the accuracy of the vote count in Ohio and the number of voters who were disenfranchised, including those who left the polls without voting because of inordinately long lines⁸ or whose provisional ballots were not counted for illegitimate

polling places).

⁴ Some challengers were also assigned at the end of the day to follow the ballots downtown to the County Board of Elections, to ensure that there was no interference with the ballots cast.

⁵ Republican challengers did present themselves and at times caused disruption in precincts in other parts of the city of Cleveland and elsewhere in Cuyahoga County. *See, e.g.*, James F. McCarty & Chris Seper, *Campaigns Chase Voters in Cuyahoga*, PLAIN DEALER, Nov. 3, 2004, at S9.

⁶ *See Sandusky County Democratic Party v. Blackwell*, 387 F.3d 565, 574-79 (6th Cir. 2004).

⁷ The Help America Voting Act of 2002 (HAVA), codified at various parts of U.S.C., imposed new federal requirements for provisional ballots. *See* 42 U.S.C. § 15482(a).

⁸ *See, e.g.*, Reginald Fields, *Ohio Voters Tell of Election Day Troubles at Hearing*, PLAIN DEALER, Nov. 14, 2004, at B3. In part these lines were due to “a wide discrepancy between the availability of voting machines in more minority, Democratic and urban areas as compared to more

reasons.⁹ After the election I myself participated in various actions on some of these issues, including the Ohio presidential recount¹⁰ and a lawsuit challenging the legal sufficiency of criteria used for the counting of provisional ballots.¹¹ In reviewing the election day, though, I want to concentrate not on what from a Democratic perspective were its failures – the total vote in Ohio that went in President Bush’s favor¹² or the failures and inadequacies of the voting system – but on something less attended, the day’s successes. Throughout election day, as I went from precinct to precinct, the poll workers, the Democratic challengers, and I were all amazed at the size of the voter turnout. Voters waited patiently in long lines; challengers told me of voters arriving in wheelchairs or carrying oxygen tanks. At a precinct that was not accessible to those with a physical disability,

Republican, suburban and exurban areas.” *The Conyers Report*, *supra* note 2, at 24.

⁹ See, e.g., Diane Solov, *System to Blame for Ballot Debacle; Focus Shifts to Finding Solutions*, PLAIN DEALER, Dec. 24, 2004, at B1. See also *The Conyers Report*, *supra* note 2, at 78-79. In general *The Conyers Report* concludes that there were “numerous, serious election irregularities in the Ohio presidential election, which resulted in a significant disenfranchisement of voters.” *Id.* at 4. In response to these and other election problems, Cleveland State University has recently established a nonpartisan Center for Election Integrity, a partnership of its Colleges of Law and Urban Affairs, to study and address issues in election administration at the local, state, and national levels.

¹⁰ I was active in the recount process itself and later testified before the Cuyahoga County Board of Elections on some of the apparent improprieties by election officials during the recount. Subsequently, some election officials were indicted. See Mark Naymik, *2 Elections Officials Indicted in Recount*, PLAIN DEALER, Aug. 31, 2005, at B1.

¹¹ State *ex rel.* Mackey v. Blackwell, 2004 WL 2973976, 2004-Ohio-7004 (Ohio App. 8 Dist. 2004 (dismissed on procedural grounds), *aff’d*, 106 Ohio St. 3d 261, __ N.E.2d __, 2005 WL 2240857 (Ohio 2005). The case was brought by the People for the American Way Foundation.

¹² According to the state official results, President Bush received 2,859,768 votes in Ohio and John Kerry received 2,741,167, a difference of 118,601. See <http://www.sos.state.oh.us/sos/ElectionsVoter/results2004.aspx?Section=135> [hereinafter 2005 Ohio Results].

ballots were brought to disabled voters outside.¹³ The challenger at this precinct told me of seeing a voter in a wheelchair having to work his way through the punch card ballot while sitting in the rain. So intensely did this voter want his vote to count that he returned to the precinct while I was later there to make sure that the poll worker receiving his ballot had in fact placed it in the ballot box. At another precinct I saw a young Latina leave the polls distraught because she discovered she was not on the precinct list, and this was the second precinct she had visited. I heard from the challenger there that the woman had wanted to ensure that she was at the correct precinct so that her vote would count. She was already late for work but was headed to a third precinct that she was directed to. Later I saw her at this third precinct, and she had not been listed there either and was now off to a fourth precinct.¹⁴ Whatever cynicism is appropriate about the machinations of the voting process and system, the deepest impression of the day was the passion to vote manifested by so many in Ward 14.

This subjective and anecdotal impression was confirmed by the vote totals both for Ward 14 and for Cuyahoga County, which includes the Cleveland metropolitan area. In Ward 14, John Kerry received 4,281 votes, over 73% of the total Ward vote¹⁵ and 29% more votes than Democratic

¹³ Federal law provides protections for voters with disabilities who must vote at nonaccessible polling places. *See, e.g.*, 42 U.S.C. § 1973ee-1(b)(2)(B)(ii) (requiring that these voters be provided an alternative means for casting a ballot).

¹⁴ As became an issue in a lawsuit filed after the election, *see supra* note 11, large numbers of voters could not find their correct precinct due in considerable part to County Board of Election and poll worker errors.

¹⁵ *See* http://boe.cuyahogacounty.us/BOE/results/history/2004/110204_GE_Pres_Recount_Canvass.txt [hereinafter 2004 BOE results].

presidential candidate Al Gore received in 2000.¹⁶ In Cuyahoga County, Kerry garnered just over 66% of the total County vote,¹⁷ and the 448,503 votes cast in his favor¹⁸ were the highest vote total ever for a Democratic presidential candidate in this County.¹⁹

The credit for these vote totals goes not only to the passion of voters but to the extensive activity to get out the vote established by the Democratic Party and independent groups such as MoveOn. The reports of Ohio being inundated by volunteers from across the country to assist the vote effort²⁰ were certainly true. During the week leading up to the election, I met, as just illustrative examples, a man from Seattle who came in to Cleveland and ended up, in the first major election support activity of his life, being a prime figure in the establishment of numerous Kerry phone banks. An attorney who had just finished her posting in London and was about to begin a new position in Washington, D.C. spent several days at the Cleveland East Side Kerry-Edwards headquarters doing

¹⁶ In 2000, Gore received 973 fewer votes in Ward 14 than Kerry's 2004 total, for a Gore total of 3,308 votes, just under 70% of the votes cast in 2000. See http://boe.cuyahogacounty.us/BOE/results/history/2000/110700_GE_Canvass.txt [hereinafter 2000 BOE results].

¹⁷ See 2004 BOE results, *supra* note 15.

¹⁸ See *id.*

¹⁹ Email to Kerry-Edwards volunteers from Mark Griffin, Cuyahoga County Coordinator, Ohio Victory 2004, The Coordinated Campaign to Elect John Kerry and John Edwards, Nov. 5, 2004 (on file with author). Kerry's County totals were higher than the totals in the winning campaigns of Bill Clinton (1996, 1992), Jimmy Carter (1976), and Lyndon Johnson (1964). *Id.* These Kerry totals came at a time when the Cuyahoga County population was actually less than in these prior years. See U.S. CENSUS BUREAU, COUNTY AND CITY DATA BOOK: 2000 (available at www.census.gov/prod/2002pubs/00ccdb/cc00_tabB1.pdf) (County population figures for 2000 and 1990); www.census.gov/population/cencounts/oh190090.txt (County population figures for 1990, 1980, 1970, and 1960).

²⁰ See, e.g., McCarty & Seper, *supra* note 5.

whatever work was necessary. Students from Manhattan came into town the weekend before the election to do canvassing and then on election day worked in election protection outside the polls to ensure no voter intimidation. The retired parents of a neighbor across the street came from D.C. also to work in election protection outside the polling places. Over 900 local Democratic challengers and supervisors, many of them attorneys, spent the entire election day working polling places in Cuyahoga County.²¹

The strong organizing effort and voter passion on the Democratic side in Cuyahoga County and other parts of Ohio were of course matched by strong organizing efforts and voter passion on the Republican side, and the official vote total went in President Bush's favor in both Ohio²² and the nation as a whole.²³ What stays with me, though, are the deep passions expressed on both sides that led to record turnouts at the polls.²⁴

These passions present at least two issues for election law analysis. First, when the past several decades have seen low voter turnout in the United States,²⁵ what was different about 2004

²¹ Telephone interview with Dora Rose, Cuyahoga County Chief of Staff for Election Protection (pro bono), Ohio Victory 2004, The Coordinated Campaign to Elect John Kerry and John Edwards, October 1, 2005. There were 843 Democratic challengers and 60 supervisors. *Id.*

²² *See supra* note 12.

²³ *See* FEDERAL ELECTIONS 2004 at 5 (reporting that President Bush received 62,040,610 votes nationwide and John Kerry received 59,028,444) (available at <http://www.fec.gov/pubrec/fe2004/federalections2004.pdf>).

²⁴ *See, e.g.*, www.sos.state.oh.us/sos/ElectionsVoter/electionResults.aspx (stating that the Ohio voter turnout during the November 2004 elections was of record proportions).

²⁵ This history of lower voter turnout is the subject of significant academic inquiry. *See, e.g.*, RUY A. TEIXEIRA, THE DISAPPEARING AMERICAN VOTER (1992); MARK LAWRENCE KORNBLUH, WHY AMERICA STOPPED VOTING (2000). Rational voter theory argues, in fact, that it is rational not to vote, because the minimal expected utility of one vote affecting an election. For a classic

that caused such increases in the presidential votes nationally,²⁶ in Ohio,²⁷ in Cuyahoga County,²⁸ and in Ward 14?²⁹ As I have already indicated, mobilization of voters by significant organized efforts was certainly a prominent factor in 2004, particularly in Ohio.³⁰ Yet the receptivity of voters to this mobilization and the very strength of the mobilization efforts themselves bring us back to the question of passions, of both voters and activists. What was there about the 2004 presidential election that so *impassioned* voters to vote? Both Democrats and Republicans want to understand and to capture the motivations that led their supporters – and their opponents -- to the polls.

A subsidiary question for election law inquiry is why many voters of lower and moderate economic means voted Republican. To date, much of the commentary here accepts that more

statement of this position, see ANTHONY DOWNS, AN ECONOMIC THEORY OF DEMOCRACY 260-76 (1957). While I do not address rational voter theory directly, my argument does strongly suggest that many more valences are at stake in voting than traditional rational voter theory seems to allow. For a more subtle argument about voting as “rational,” see Richard L. Hasen, *Voting Without Law?*, 144 U. PA. L. REV. 2135 (1996) (assessing the rationality of voting because a social norm).

²⁶ The 122,295,345 total presidential votes cast nationally in 2004, *see* FEDERAL ELECTIONS 2004, *supra* note 23, at 5, were an increase of 16% over the 105,405,100 total presidential votes cast nationally in 2000. *See* www.fec.gov/pubrec/2000presgeresults.htm.

²⁷ The 5,627,908 total presidential votes cast in Ohio in 2004, *see* 2004 Ohio Results, *supra* note 12, were an increase of 23% over the 4,583,767 total presidential votes cast in the state in 2000. *See* www.sos.state.oh.us/ElectionsVoters/results2000.aspx?Section=234.

²⁸ The 673,740 total presidential votes cast in Cuyahoga County in 2004, *see* 2004 BOE results, *supra* note 15, were an increase of 17% over the 574,77 total presidential votes cast in the County in 2000. *See* 2000 BOE results, *supra* note 16.

²⁹ The 5,646 total presidential votes cast in Ward 14 in 2004, *see* 2004 BOE results, *supra* note 15, were an increase of 19% over the 4,752 presidential votes cast in the Ward in 2000. *See* 2000 BOE results, *supra* note 16.

³⁰ For an argument that the decline in voter participation is due in part to a decline in voter mobilization, for example, by political parties, *see* STEVEN J. ROSENSTONE & JOHN MARK HANSEN, MOBILIZATION, PARTICIPATION, AND DEMOCRACY IN AMERICA (1993).

wealthy Republican voters voted out of economic self-interest but expresses dismay that those lower on the economic ladder voted *against* economic self-interest. Thomas Frank's book, *What's the Matter with Kansas? How Conservatives Won the Heart of America*,³¹ is the prototype of this form of explanation. On the first page of his book, Frank writes: "People getting their fundamental interests wrong is what American political life is all about. This species of derangement is the bedrock of our civic order"³² Those in the lower economic classes who vote Republican engage in "self-denying votes";³³ they participate in a "politics of self-delusion."³⁴ These voters present a fury which passes all understanding.³⁵ Frank's tone is one of incredulity: how could such false belief occur and persist. One has the sense reading Frank that his dismay lies both with the false belief and the failure of right reason – economic insight, for example – to conquer the false belief. On the basis of analyses such as his, these Republican voters should move from the shadow world described in Plato's allegory of the cave into the light of true reality,³⁶ but they have not.

By contrast, I will argue that characterization of the partisan debate as simply one between reason and false belief is both unhelpful and inaccurate. While Democrats may view the Republican passions as distortions and mystifications, and Republicans may say the reverse, what needs

³¹ THOMAS FRANK, *WHAT'S THE MATTER WITH KANSAS? HOW CONSERVATIVES WON THE HEART OF AMERICA* (2004) [hereinafter FRANK, *WHAT'S THE MATTER*].

³² *Id.* at 1.

³³ *Id.* at 2.

³⁴ *Id.* at 79.

³⁵ *Id.* at 111 ("The Fury Which Passeth All Understanding," title of the book's section III).

³⁶ PLATO, *REPUBLIC* 514a-516d.

explanation is the phenomenon of voter passion as some potentially common characteristic that can then be subdivided into its productive or distortive elements. The two questions posed of election law analysis become one: how can we explain the nature of voters' passions that motivate them to go to the polls?

This recontextualization of political debate, I contend, may take place through a revived theory of ideology, and I draw especially on Paul Ricoeur's *Lectures on Ideology and Utopia*³⁷ for that purpose. Ricoeur argues that ideology may be defined by three different qualities. Part I describes the first, the more typical conception of ideology as distortion. Part II establishes the second, Ricoeur's development of the concept of ideology as legitimacy. The contention is that there always exists a gap between the government's claim to political authority and the citizenry's belief in that authority, and ideology as legitimacy seeks to fill that gap. Part III offers Ricoeur's argument that the deepest and nonpejorative dimension of ideology lies in its ability to act as integrative, to provide identity to an individual or group. Critical to this assessment is an appreciation that ideology rests on the inextricably symbolic structure of action. Part IV introduces the dimension of ideology over time and contrasts ideology and utopia. Part V returns to explore the implications of ideology as a symbolic structure and unfolds on this basis the possibilities of ideological persuasion, change, and transformation. Election law analysis as well as the political parties must come to appreciate how both Republican and Democratic stances are ideological in all these senses. The goal is not to provide specific answers to what should be a Democratic or a Republican ideology but to resituate

³⁷ PAUL RICOEUR, LECTURES ON IDEOLOGY AND UTOPIA (George H. Taylor ed., 1986) [hereinafter RICOEUR, LECTURES]. As evident from my role as editor of this work, it should not be surprising that I will be partisan in my invocation of it.

political debate within an ideological framework rather than as one between reason and not. Ideology helps explain the range of voters' passions that inspired them to go to the polls.

I. Ideology as Distortion

Characterization of ideology as distortion is the commonplace depiction and requires but brief elaboration. Proceeding from the surface level of analysis downward, Ricoeur says, ideology “designates initially some distorting, dissimulating processes by which an individual or a group expresses its situation but without knowing or recognizing it.”³⁸ There is both a disjuncture between appearance and reality and a lack of awareness by the adherent that the disjuncture exists. Thomas Frank's argument fundamentally rests at this level of ideology. Republican voters of lesser economic means are voting against their economic interests. He describes voting patterns, for example, in Johnson County of his home state of Kansas:

This much is clear . . . from the elections of the last ten years: those parts of Johnson County with the lowest per capita income and lowest median housing values consistently generated the strongest support for the conservative faction [of the Republican Party]. The areas with the highest income and highest real-estate values – Mission Hills and Leawood – were just as reliably loyal to the moderate machine. The more working-class an area is, the more likely it is to be conservative.³⁹

Similarly, in a visit to West Virginia during the 2004 presidential campaign, Frank saw posters for President Bush on the most humble of dwellings. Despite the state's history of class conflict

³⁸ *Id.* at 1.

³⁹ FRANK, WHAT'S THE MATTER, *supra* note 31, at 104. Part of the puzzle for Frank is that the current voting patterns were reversed thirty years ago, and one hundred years ago the most economically desperate areas were the most radical. “In Kansas, the political geography of social class has been turned upside down.” *Id.*

between miners and mine owners and despite the harm to them of Bush's tax cuts and antagonism to organized labor, voters Frank spoke with said they were voting Republican because of beliefs about abortion and gun control.⁴⁰

More generally, critics of Republican policy charge that the current Administration promotes its will regardless of social or scientific reality. In a fall 2004 article that has drawn considerable attention,⁴¹ Ron Suskind writes of an earlier conversation with an unnamed senior Bush adviser that Suskind "now believe[s] gets to the very heart of the Bush presidency." The aide criticized those like Suskind "'in . . . the reality-based community,'" that is, those who "'believe that solutions emerge from your judicious study of discernible reality.'" By contrast, for the Administration, "[w]e're an empire now, and when we act, we create our own reality."⁴² The conjunction between what is created and actual reality is not an issue. The Administration's policy toward the war in Iraq is of course a prominent example. General Tony Zinni writes of the Administration policy leading up to and during the war: "I saw, at a minimum, true dereliction, negligence, and irresponsibility; at worst, lying, incompetence, and corruption. False rationales [were] presented as a justification"⁴³ Similar criticism of the Administration's resistance to reality is aimed at, for example, its

⁴⁰ Thomas Frank, *What's the Matter with Liberals?*, N.Y. REV. OF BOOKS, May 12, 2005, at 46, 48.

⁴¹ See, e.g., Mark Danner, *The Secret Way to War*, N.Y. REV. OF BOOKS, June 9, 2005, at 70, 73 (quoting Suskind, *infra* note 42).

⁴² Ron Suskind, *Without a Doubt*, N.Y. TIMES MAG., Oct. 17, 2004 (available at www.nytimes.com and at 2004 WLNR 5575012).

⁴³ TOM CLANCY, TONY ZINNI & TONY KOLTZ, *BATTLE READY* 426 (2004).

environmental policy on global warming.⁴⁴ The Republican ideology, the claim goes, asserts itself against reality; it masks and obfuscates reality. Democrats are ready with facts and figures; Republicans rest on faith. To whatever degree these criticisms are accurate, though, Ricoeur's tripartite analysis of ideology suggests that something more is at stake in current political debate than simply the need to address and overcome distortion or false consciousness.⁴⁵ Deeper levels of ideology are also at work.

II. Ideology as Legitimation

Ideology as distortion arises in the political sphere precisely on the basis of its outgrowth from ideology's still deeper levels. Legitimation, the second form of ideology, acts on the boundary between ideology's first form, as distortion, and its third form, as integration or identification.⁴⁶

The problem of the legitimation of authority places us at the turning point between a neutral concept of integration and a political concept of distortion. The degradation, the alteration, and the diseases of ideology may originate in our relation to the existing system of authority in our society. Ideology moves beyond mere integration to distortion and pathology as it tries to bridge the tension between authority and domination.⁴⁷

What is the distortive element of legitimation? Inspired in part by sociologist Max Weber,⁴⁸ Ricoeur's argument here takes several steps. While it is true that government has the ability to

⁴⁴ See, e.g., CHRIS MOONEY, *THE REPUBLICAN WAR ON SCIENCE* (2005).

⁴⁵ See, e.g., JOSEPH GABEL, *FALSE CONSCIOUSNESS: AN ESSAY ON REIFICATION* (Margaret A. Thompson trans., 1975).

⁴⁶ See *infra* Part III.

⁴⁷ RICOEUR, *LECTURES*, *supra* note 37, at 14.

⁴⁸ Ricoeur's principal discussion of legitimacy occurs over the course of two lectures on

coerce citizenry behavior by force, no system of authority functions by means of force alone.⁴⁹ Rather, every political system relies on the citizenry's *belief* in the legitimacy of its authority.⁵⁰ Obedience to police officers is not simply a result of their physical power to stop, arrest, injure, or kill; it is also a consequence of the citizenry's belief in the officers' function.⁵¹ There is a response of belief to the state's claim of legitimacy.⁵² Ricoeur's claim is that this belief in the authority is ideological; ideology plays the role here of legitimating authority.⁵³

Weber. *See id.* at 181-215. Ricoeur is quite overt, though, that his argument here moves considerably beyond Weber's treatment of the topic. *See, e.g., id.* at 183, 214-15.

⁴⁹ *Id.* at 154.

⁵⁰ *Id.* at 199. *See, e.g.,* Ian Buruma, *The Indiscreet Charm of Tyranny*, N.Y. REV. OF BOOKS, May 12, 2005, at 35, 35:

[D]ictators cannot rule by terror alone. Terror is a necessary part of their monopoly of power, but not sufficient in itself. Dictators would only disappear forever if people were to give up their willingness, and sometimes even desire, to be ruled by them. But alas, man is weak, especially when faced with a crisis, and his desires are easily manipulated.

See also REPORT OF THE SECRETARY-GENERAL'S HIGH-LEVEL PANEL ON THREATS, CHALLENGES AND CHANGE, A MORE SECURE WORLD: OUR SHARED RESPONSIBILITY 66 (2004) (available at www.un.org/secureworld) [hereinafter U.N. PANEL REPORT] ("The effectiveness of the global collective security system, as with any other legal order, depends ultimately not only on the legality of decisions but also on the common perception of their legitimacy . . .").

Analysis of the role played by legitimation may be extended beyond the functioning of governmental power to the power exerted by other organizations, such as corporations. To what degree can executives rule their employees by coercion alone rather than by also seeking employee trust? *See, e.g.,* Joseph Nocera, *In Business, Tough Guys Finish Last*, N.Y. TIMES, June 18, 2005, at B1 (arguing a recent trend toward the latter).

⁵¹ RICOEUR, LECTURES, *supra* note 37, at 194.

⁵² *See id.* at 195.

⁵³ *See id.* at 13.



Legitimation is ideological, because while there should be an equivalence between the claim to legitimacy by the authority and the citizenry's belief in this legitimacy, there is not parity but a gap.⁵⁴ There is always more in the claim to legitimacy than in the citizenry's spontaneous belief.

Ideology functions to add a certain surplus-value to our belief in order that our belief may meet the requirements of the authority's claim. The . . . notion of distortion makes more sense if we say that it is always the function of ideology to legitimate a claim of legitimacy by adding a supplement to our spontaneous belief. The function of ideology at this stage is to fill the credibility gap in all systems of authority.⁵⁵

The equivalence of claim and belief is a cultural fabrication.⁵⁶ The supplementation of belief is "extorted by the claim."⁵⁷

Ricoeur's contention is that legitimation, the supplementation of belief, is required across all systems of political power, even the most rational in appearance.⁵⁸ Belief is intrinsic, because we grant no authority to a political system simply on account of its structure. We must make a commitment to that structure, and that is a belief corresponding to the system's claim of authority.⁵⁹ This belief could be commensurate with the actuality of a system's claim of rationality, but even rational systems go further and create credibility gaps. A system of formal rules permits distorted forms of political behavior, ranging from arbitrariness to bureaucratic detail that clogs and perverts a

⁵⁴ *See id.* at 13, 183.

⁵⁵ *Id.* at 183. *See also id.* at 202.

⁵⁶ *Id.* at 13.

⁵⁷ *Id.* at 212.

⁵⁸ *See, e.g., id.* at 206.

⁵⁹ *Id.* at 204.



system's goals to irresponsibility that defends itself as obedient to the system.⁶⁰ Formal rules may also serve as a facade that hide the real sources of power at work in a political regime.⁶¹ The attempt to preserve the claim that these kinds of authority are rational requires ideological supplementation of citizenry belief.⁶²

Ricoeur asks whether what keeps any political authority not simply legal but a power may be finally its retention of the most elemental kind of authority, charismatic authority.⁶³ Ricoeur quotes Weber's definition of the term:

The term "charisma" will be applied to a certain quality of an individual personality by virtue of which he is considered extraordinary and treated as endowed with supernatural, superhuman, or at least specifically exceptional powers or qualities. These are such as are not accessible to the ordinary person, but are regarded as of divine origin or as exemplary, and on the basis of them the individual concerned is treated as a "leader."⁶⁴

Political leaders claim charismatic authority in the sense that they assert a special power to speak a truth, and in turn, they seek the citizenry's belief in that claim.⁶⁵ The religious overtones of the charismatic authority's claim to truth and to belief in that truth should not be underestimated.⁶⁶

⁶⁰ *See id.* at 206-7 (citing for the last Hannah Arendt's work on Adolph Eichmann and the authoritarian state).

⁶¹ *See id.* at 209.

⁶² *See id.* at 207.

⁶³ *See id.* at 212.

⁶⁴ *Id.* (quoting 1 MAX WEBER, *ECONOMY AND SOCIETY* 242 (Guenther Roth & Claus Wittich eds., 1968)).

⁶⁵ RICOEUR, *LECTURES*, *supra* note 37, at 212.

⁶⁶ *See id.*



Ricoeur poses the question “whether this disjuncture between claim and belief in charismatic authority is not the basis for all issues of power and domination in general.”⁶⁷

This analysis of legitimation as ideological explains much in current American political life. It is a commonplace that President Bush appeals to many social conservative voters because of his linking of a conservative religious faith to stances on issues such as abortion and same-sex marriage.⁶⁸ But more is at work here than simply a rational conjunction of the President’s position with these voters’ own political and religious perspectives. Many of these voters have a *faith* in the President, that he is a manifestation of God’s work,⁶⁹ that he exhibits charismatic authority. This has several consequences. First, the source of the President’s power for these voters – on the claim that he presents – rests on this charismatic authority. Evidence to support or corroborate the President’s claims is a secondary consideration; primary is the power. These voters judge the President’s worth on the basis of “intangibles – character, certainty, fortitude and godliness – rather than on what he says or does.”⁷⁰ At stake here is not only the nature of the claim to authority – that its character is

⁶⁷ *Id.* at 212-13. *Cf.* Buruma, *supra* note 50, at 37 (“What has not changed is human nature, the human desires that have allowed dictators to emerge in the past. The wish to worship, to be sheltered by a great father, to bask in the reflected glory of war, to be mesmerized by the spectacle of power, or swept up in collective emotion, these are still with us.”); ROBERTO CALASSO, *THE RUIN OF KASCH* 312 (1994) (raising in this novel the question of “an unexplored mechanism of the mind whereby the word ‘sovereignty’ drags all the gods in its train. . . . A disenchanted sovereignty *cannot* exist Our entire political future depends on the investigation of such a theorem of sovereignty, which is still a long way from seeming evident, convincing, well defined.”).

⁶⁸ *See* Suskind, *supra* note 42.

⁶⁹ *See id.*

⁷⁰ *Id.* While criticizing the point, Thomas Frank observes how this legitimacy of authority is provided other political figures. “The careers of [present or former members of Congress] Newt Gingrich, Henry Hyde, Bob Barr, and Enid Waldholtz are all tainted by revelations of foulest hypocrisy. And yet the suspicions of the rank and file are not aroused. The power of their shared

properly adduced by traits more than those available to empirical evidence – but, a second point, the role of belief in response to this claim. Belief fills in the empirical evidentiary gaps. There is an expectation that one’s faith in the other will be rewarded. “If you have faith in someone, that person is filled like a vessel. Your faith is the wind beneath his or her wings.”⁷¹ Belief offers supplementation to the claim. Third, the claim of a charismatic authority both presumes that it is right and requires from its followers faith that it is right. “The president has demanded unquestioning faith from his followers, his staff, his senior aides and his kindred in the Republican Party. Once he makes a decision – often swiftly, based on a creed or moral position – he expects complete faith in its rightness.”⁷²

This interplay of the authority’s claim and the citizenry’s belief and supplementation of belief help explain what for many Democrats is one of the most frustrating aspects of the President’s backing: its seeming imperviousness to facts. The Administration has well understood that what is critical to its support is not the facts as reported in *The New York Times* but “what most Americans are willing to believe.”⁷³ Those who continue to believe – despite the evidence – in a link between Saddam Hussein and Osama bin Laden⁷⁴ or between Iraq and the 9/11 attacks⁷⁵ may do so simply

vision of martyrdom is sufficient to overcome any set of facts that are merely material, merely true.” FRANK, WHAT’S THE MATTER, *supra* note 31, at 236.

⁷¹ Suskind, *supra* note 42.

⁷² *Id.*

⁷³ Danner, *supra* note 41, at 73. I return later to the question of whether Democrats are also ideological in finding and interpreting facts in light of their own ideology. See *infra* text accompanying note 159. Note too that there may be a difference between facts and facts as reported in the *Times*.

⁷⁴ See, e.g., GEORGE LAKOFF, DON’T THINK OF AN ELEPHANT! KNOW YOUR VALUES AND

because of the Administration's – the charismatic authority's – assertion of these facts.⁷⁶ There may be belief that the facts are actually true (which would be ideology as distortion), or that the facts have a reality whose proof will yet come true, or that the assertions portray a deeper "truth," for example, the religious war between the Christian West and Islam.

What this analysis suggests is that to combat the ideology articulated by the President and defended by those who believe in him, two alternatives are possible. Both require Democrats to recognize that further compilation of facts contesting the Administration's positions is not sufficient in and of itself. One alternative is for Democrats to construct a persuasive alternative ideology; I later return to this topic.⁷⁷ The other alternative, which is not pursued by Ricoeur, is to investigate how the credibility gap between the President's claim to authority and his supporters' belief in this authority can become stretched to the breaking point. At what point will his supporters refuse to provide either any longer or in any additional increment supplementation to their belief in the President such that they no longer believe in the legitimacy of his authority? Critical to this assessment is the understanding that this decisional point does not rest finally on facts but on belief, more precisely, on the loss of belief, the loss of faith. Facts may be relevant, but they are not decisive.

FRAME THE DEBATE 72 (2004) [hereinafter LAKOFF, DON'T THINK] (citing a figure that this belief is held by 40% of the American public).

⁷⁵ Garry Wills, *The Day the Enlightenment Went Out*, N.Y. TIMES, Nov. 4, 2004, at A25 (citing a poll taken prior to the 2004 election showing that 75% of the President's supporters held this belief).

⁷⁶ See LAKOFF, DON'T THINK, *supra* note 74, at 72.

⁷⁷ See *infra* Part V.



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Issues that could create such a tipping point,⁷⁸ either by their singular or cumulative impact, are many. The conduct of the war in Iraq is an obvious example. The lack of clarity about the American mission has become increasingly troublesome to voters, at a time when the costs of lives – such as the nineteen reservists from a nearby Cleveland suburb – is increasingly dramatic,⁷⁹ and the course of the war continues to appear chaotic with overtones of a developing civil war.⁸⁰ “[J]ust as politics are a bad motive for choosing a war, so they can be a doomed engine for running a war.”⁸¹ Domestically, the President’s limited and delayed response to the devastation caused by Hurricane

⁷⁸ See MALCOLM GLADWELL, *THE TIPPING POINT: HOW LITTLE THINGS CAN MAKE A BIG DIFFERENCE* (2000).

⁷⁹ See, e.g., Frank Rich, *Someone Tell the President the War is Over*, N.Y. TIMES, Aug. 14, 2005, at 13 (citing the reservists’ deaths and the declining approval rate for the President’s handling of the war down to 34%).

⁸⁰ See, e.g., John F. Burns, *If It’s a Civil War, Do We Know It?*, N.Y. TIMES, July 24, 2005, § 4, at 1.

Other recent evidence has, at least at the time of my writing, apparently not created any significant damage on the President. This evidence includes the Downing Street memo and the Administration’s attack on former ambassador Joseph C. Wilson IV. The Downing Street Memo showed the Administration’s apparent decision to go to war in Iraq some eight months prior to the war’s actual beginning. See *The Secret Downing Street Memo*, N.Y. REV. OF BOOKS, June 9, 2005, at 71. This decision contradicted the Administration’s public claim that the final decision rested on facts accumulated up to the war’s beginning including, of course, the “fact” of Iraq’s having weapons of mass destruction. See Danner, *supra* note 41. Danner acknowledges “Americans’ lack of interest in what [the memo] shows.” *Id.* at 73.

In the Wilson case, Administration officials leaked the name of the ambassador’s wife, Valerie (Plame) Wilson, as an undercover C.I.A. agent, in apparent retaliation for Wilson’s public criticism of the Administration’s twisting of prewar evidence about Iraq’s nuclear program. See Richard W. Stevenson, *For Bush, Effect of Investigation of C.I.A. Leak Case is Uncertain*, N.Y. TIMES, July 24, 2005, at 1. Democrats thought the case would help raise issues about the credibility of the President’s decision to go to war. See *id.* See also Scott Shane, *Ex-Diplomat’s Surprise Volley on Iraq Drove White House into Political Warfare Mode*, N.Y. TIMES, July 24, 2005, at 19.

That these situations have apparently not injured the President is, of course, consistent with my larger thesis, that ideological belief does not rest finally on facts alone.

⁸¹ Rich, *supra* note 79, at 13.

Katrina has raised questions about his leadership and whether trust in this leadership continues to be justified.⁸² The indictment of Republican House majority leader Tom DeLay and ethical issues facing various other prominent Republicans may also present a historical moment where belief in Republican authority may start to diverge markedly from the claim to authority.⁸³ The President's nomination to the Supreme Court is causing disaffection from social conservatives that may shatter the Republican coalition.⁸⁴ Less immediately visible but potentially significant domestic problems for the President include the health of the economy given rising deficits⁸⁵ and growing trade

⁸² See, e.g., Richard W. Stevenson, *The President From 9/11 Has Yet to Reappear*, N.Y. TIMES, Sept. 9, 2005, at A19 (raising these issues). See also *Actually, It Was FEMA's Job* [editorial], N. Y. Times, Oct. 2, 2005, § 4, at 11 (criticizing FEMA's attempts to deflect criticism for poor performance onto local and state authorities).

⁸³ See, e.g., Robin Toner, *For Republicans, a Swelling Sea of Troubles*, N.Y. TIMES, Sept. 29, 2005, at A1 (reporting on the DeLay indictment, the investigation into stock dealings of Republican Senate majority leader Bill Frist, the indictment of Republican lobbyist Jack Abramoff, and the arrest of former White House budget official David H. Safavian on charges of lying and obstruction of a federal inquiry).

⁸⁴ See, e.g., David D. Kirkpatrick, *Wink and a Prayer: The Crisis of the Bush Code*, N.Y. TIMES, Oct. 9, 2005, § 4, at 1. The social conservative concern is not only that Miers is not herself sufficiently conservative but that the President did not deem it sufficiently important to provide a more clearly and overtly conservative nominee. In the words of conservative commentator George Will, the President is asking his constituency simply to "trust" him, and conservatives are now openly questioning whether that trust is warranted. See George F. Will, *Bush Wallows in Identity Politics by Nominating Harriet Miers*, PITTSBURGH POST-GAZETTE, Oct. 6, 2005, at B7 (available at 2005 WLNR 16205733). Those who have believed in the President may find too big a gap between the claim to legitimacy and the belief required. Even if Miers's nomination is successful, that may not repair the loss of faith in the President by social conservatives. See Kirkpatrick, *supra*, at 1 ("some conservatives say the damage has already been done to Mr. Bush's Republican base").

⁸⁵ Even prior to Hurricane Katrina and the costs it will impose on the economy and the federal budget, concerns have been raised about the Administration's budget calculations, which have not included the costs in 2007 and afterwards of continuing the wars in Iraq and Afghanistan or of showing how various forms of tax relief the Administration has proposed will be achieved. To take just one example, it is projected that the cost of an Administration tax panel's proposal to repeal the alternative minimum tax would be \$1.2 trillion over ten years. See *Deficit Disorder*, N.Y. TIMES,

imbalances.⁸⁶ If it proves to be the case that “as time goes on and the gap grows between what Americans see and what they are told,”⁸⁷ then the disparity between the President’s claim to authority and the people’s belief in that authority may become too great. A sense may arise of a betrayal of trust.⁸⁸ Although this loss of belief, loss of faith, may not affect the *formal*, legal legitimacy of the Administration’s authority, it may end the *political* legitimacy of its authority.

III. Ideology as Integration

Ricoeur argues that we cannot rid ourselves of ideology, but we can locate a “nonpejorative concept of ideology as integration.”⁸⁹ Integration here entails not its customary sense in contemporary American law as racial integration but consists rather as a concept of identity for an individual or group, a constitutive, integrative function.⁹⁰ The existence of this constitutive function

July 24, 2005, § 4, at 11 (editorial).

⁸⁶ See, e.g., William Greider, *America’s Truth Deficit*, N.Y. TIMES, July 18, 2005, at 13: “Our economy’s international debt position – accumulated from many years of tolerating larger and larger trade deficits – began compounding ferociously in the last five years. Our net foreign indebtedness is now more than 25 percent of gross domestic product and at the current pace will reach 50 percent in four or five years.” Among the concerns is that a significant number of foreign investors in the United States will come to conclude that the health of the U.S. economy is at risk and pull their money and invest elsewhere, to the significant shock to the American economy. See, e.g., David E. Sanger, Mark Landler & Keith Bradsher, *Dollar’s Slide Adding to Tensions U.S. Faces Abroad*, N.Y. TIMES, Jan. 25, 2005, at C1.

⁸⁷ Danner, *supra* note 41, at 74.

⁸⁸ LAKOFF, DON’T THINK, *supra* note 74, at 77 (“[L]ying in itself is not and should not be the issue. The real issue is a betrayal of trust.”).

⁸⁹ RICOEUR, LECTURES, *supra* note 37, at 253.

⁹⁰ See *id.* at 158.



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can be derived from ideology's other two functions. It is the condition of possibility for the process of distortion;⁹¹ it is "something that can be distorted."⁹² It is also "something within which lies the process of legitimation."⁹³ It is the source of a constitutive belief that can become distorted in the supplementation of belief required to fill the gap between the claim to legitimate authority and the belief in this authority.⁹⁴ That ideology as integrative can be distorted and can be the source of a constitutive belief also tells us something fundamental about its own composition. It originates at the level of the symbolic structure of action.⁹⁵ "[A]ction itself is symbolic in the sense that it is construed on the basis of fundamental symbols."⁹⁶ For Ricoeur, this symbolic structure of action is ineluctable. "[T]here is no social action which is not already symbolically mediated. . . . [S]ymbolic systems belong already to the infrastructure, to the basic constitution of human being."⁹⁷ Using analogous vocabulary, Ricoeur argues that ideology as integrative "is not the distortion of communication but the rhetoric of basic communication. There is a rhetoric of basic communication because we cannot exclude rhetorical devices from language; they are an intrinsic part of ordinary language."⁹⁸ Human social, cultural, or political action is never simply a brute fact; it exists always

⁹¹ *See id.* at 155.

⁹² *Id.* at 255.

⁹³ *Id.*

⁹⁴ *See id.* at 204.

⁹⁵ *Id.* at 253.

⁹⁶ *Id.* at 256.

⁹⁷ *Id.* at 258.

⁹⁸ *Id.* at 259. In Part V *infra*, I return to some of the implications of these emphases on the



within and as part of a symbolic structure. Distortion would not appear were there not a symbolic structure of action that could be distorted.⁹⁹ As integrative, ideology has a function broader than politics; the constitutive relationship is social, not just political.¹⁰⁰ Finally, the integrative function supports group identity not only in the contemporary space but also over time, backwards in memory¹⁰¹ and forwards as a prospective identity.¹⁰²

Part of the great insight of Ricoeur's delineation of ideology as integrative is that it makes apparent that individual or social group identification takes place on the basis of symbolic or rhetorical values that may diverge from economic criteria. No longer is economic reasoning necessarily basic to human identity; other values may well hold integrative sway. Let me provide an example. In his prolific and probing work, Derrick Bell expresses dismay that Whites of modest or meager means have not seen that their economic interests could be enhanced by alliance with Blacks of similar plight.¹⁰³ Instead, these Whites have acted *against* their economic interests.¹⁰⁴ Why? Bell argues that these Whites have asserted a property right in Whiteness that provides them a superior

structure of symbolic action and the rhetoric of basic communication.

⁹⁹ *Id.* at 263.

¹⁰⁰ *Id.* at 260.

¹⁰¹ *See id.* at 261.

¹⁰² *See id.* at 311. I return to this temporal dimension of identity in Part IV.

¹⁰³ *See, e.g.,* DERRICK BELL, *AND WE ARE NOT SAVED: THE ELUSIVE QUEST FOR RACIAL JUSTICE* 162-65 (1987) [hereinafter BELL, *AND WE ARE NOT SAVED*].

¹⁰⁴ *See, e.g.,* DERRICK BELL, *AFROLANTICA LEGACIES* 8 (1998) [hereinafter BELL, *AFROLANTICA LEGACIES*].

status over Blacks.¹⁰⁵ They prioritize this sense of individual and group White identity *despite* it being economically dysfunctional.¹⁰⁶ While Bell strenuously rejects the property right in Whiteness and harshly criticizes its dire effects on prolonging Black racial subordination, he recognizes its separability from economic interests and the power of identity it provides to Whites.

Two points are worthy of consideration here. First, one may well criticize an ideology from an external perspective as distortive or illegitimate but may still acknowledge the positive, integrative value it has for its adherents. Second, the analysis reveals again that objection to an ideology must rest not finally on facts but at the level of rhetoric and symbolic structure. Facts can be incorporated into the argument at the level of symbolic structure but usually do not suffice on their own. Sometimes the objection to an ideology may take the role of a critique internal to the ideology's own values; more typically, the critique will need to propose a more persuasive alternative ideology. Let me return to the work of Thomas Frank to expand on both of these points.

As previously mentioned,¹⁰⁷ Frank's principal critique is that in places such as his home state of Kansas, individuals of lesser economic means have swung to the Republican column in support of a distortive ideology that works against their economic benefit. He describes "a crusade in which one's material interests are suspended in favor of vague cultural grievances that are all-important and

¹⁰⁵ See, e.g., BELL, AND WE ARE NOT SAVED, *supra* note 103, at 137.

¹⁰⁶ In other work I have examined Bell's writings at greater length. See George H. Taylor, *Derrick Bell's Narratives as Parables*, N.Y.U. REV. LAW & SOC. CHANGE (forthcoming 2006) [hereinafter Taylor, *Derrick Bell's Narratives*]; *Racism as "The Nation's Crucial Sin": Theology and Derrick Bell*, 9 MICH. J. RACE & LAW 269 (2004) [hereinafter Taylor, *Racism as "The Nation's Crucial Sin"*], reprinted in THE DERRICK BELL READER 433 (Richard Delgado & Jean Stefancic eds., 2005).

¹⁰⁷ See *supra* Part I.



yet incapable of every being assuaged.”¹⁰⁸ He recalls a newspaper article about a locale ““where hatred trumps bread,”” where “unassuageable cultural grievances are elevated inexplicably over solid material ones, and basic economic self-interest is eclipsed by juicy myths of national authenticity and righteousness wronged.”¹⁰⁹ While the article’s focus was the Palestinian-Israeli conflict, Frank immediately thinks of the report’s applicability to Kansas.¹¹⁰ He views in his home state a “landscape of distortion, of paranoia, and of good people led astray.”¹¹¹ The Republican ideology is simply a distortive one.

Yet in the midst of this critique, Frank acknowledges at point the positive value that the Republican ideology provides to those who subscribe to it. It offers “a general way of understanding the buzzing mass-cultural world we inhabit,”¹¹² an “airtight explanation of reality,” an “ability to make sense of the average person’s disgruntlement,”¹¹³ “a ready-made identity.”¹¹⁴ Early in the book Frank acknowledges the conservative moment’s “power as an idea and its broad popular vitality,”¹¹⁵

¹⁰⁸ FRANK, WHAT’S THE MATTER, *supra* note 31, at 121. In Part IV *infra*, I return to his claim that this ideology is not assuaged.

¹⁰⁹ *Id.* at 239.

¹¹⁰ *Id.* (In his text, Frank indicates that the newspaper article came from *The Wall Street Journal*, *see id.*, but his notes provide no more specific reference as to date or page.)

¹¹¹ *Id.* at 242.

¹¹² *Id.* at 240.

¹¹³ *Id.* at 162.

¹¹⁴ *Id.* at 157.

¹¹⁵ *Id.* at 8.



but to him this power remains false and distortive; it furnishes “pseudospiritual goods.”¹¹⁶ Frank spends several pages describing the political activities of Tim Golba, a blue collar worker at a Pepsi bottling plant who has built the organization Kansas for Life into a powerful political base that has made significant inroads into the state Republican party and had considerable electoral success.¹¹⁷ Frank acknowledges Golba’s “monastic lifestyle” and the tremendous personal and material sacrifices he has made to move his organization forward.¹¹⁸ Frank writes of Gotha, “Ignoring one’s economic self-interest may seem like a suicidal move to you and me, but viewed a different way it is an act of noble self-denial; a sacrifice for a holier cause.” Yet Frank concludes that Golba’s self-sacrifice has operated only as an “upside-down” version of the farmworker organizer Cesar Chavez: selfless toil but to make the economically powerful even more powerful.¹¹⁹ What is remarkable is both Frank’s continuing insistence that the denial of economic self-interest is nonsensical and his unwillingness to acknowledge that Golba is providing for himself and the members of his organization a very powerful form of self-identity that is separable from economic self-interest.

Reflection on Frank’s work recapitulates the principal insights about ideology as integrative. First, while liberals may well view the conservative ideology expressed by Golba and others as distortive, liberals also need to appreciate that it presents a coherent, integrative ideology to its followers. Second, the proper baseline for comprehension and criticism of ideologies rests not on economic self-interest or economic fact but on a symbolic structure of beliefs, norms, and values (of

¹¹⁶ *Id.* at 242.

¹¹⁷ *Id.* at 166-69.

¹¹⁸ *Id.* at 168.

¹¹⁹ *Id.* at 169.



which economic interests may be one). Criticism must proceed finally not on the basis of fact but on the presentation of an alternative, more persuasive integrative ideology.

On the American political scene, ideas similar to these have recently been expressed most lucidly by George Lakoff. Lakoff too argues that people vote more on the basis of their values and sense of identity than on the basis of their economic self-interest.

It is not that people never care about their self-interest. But they vote their identity. And if their identity fits their self-interest, they will vote for that. It is important to understand this point. It is a serious mistake to assume that people are simply always voting in their self-interest.¹²⁰

It is not contradictory, for example, for conservatives to vote against their economic self-interest in favor of strict crime legislation that will put more people in prison and entail significantly high prison costs if that vote is consistent with their conservative views on crime and morality.¹²¹ It is not contradictory for lower and middle class conservatives to agree with President Bush's tax cut even though they would disproportionately bear its cost and its principal benefit would go to the rich if these voters believe that the economic activity of the rich should not be unjustly burdened.¹²² Lakoff agrees with Ricoeur both that conservative voters may grant priority to individual or group identity rather than economic self-interest and that this identity is a coherent, integrative ideology in these voters' mind.¹²³ Whatever distortions liberals find in conservative ideology, they must also seek to

¹²⁰ LAKOFF, DON'T THINK, *supra* note 74, at 19. *See also id.* at 39, 87.

¹²¹ *See* GEORGE LAKOFF, MORAL POLITICS: HOW LIBERALS AND CONSERVATIVES THINK 144 (2d ed. 2002) [hereinafter LAKOFF, MORAL POLITICS].

¹²² *See id.* 398; LAKOFF, DON'T THINK, *supra* note 74, at 18-19. A number of these voters also believe that these tax cuts may be in their own long-term economic self-interest, as they expect someday to be wealthy themselves. *See id.*; LAKOFF, MORAL POLITICS, *supra* note 121, at 398.

¹²³ *See id.* at 147.



understand conservative norms and the basis for these norms on their own terms.¹²⁴ Simple “demonization”¹²⁵ of conservative voters misses the moral understanding¹²⁶ necessary to begin any successful effort to move these voters to vote differently in the future. Most primordially, Lakoff argues, liberals must comprehend, as conservatives have, the real bases upon which politics proceeds:

As long as liberals ignore the *moral, mythic, and emotional dimension of politics*, as long as they stick to policy and interest groups and issue-by-issue debate, they will have no hope of understanding the nature of the political transformation that has overtaken this country and they will have no hope of changing it.¹²⁷

In Ricoeur’s terms, liberals need to grasp the positive, integrative dimensions of ideology as well as the distortive.

What is, according to Lakoff, the positive conservative political model? He draws upon metaphors of the family and contrasts a liberal “Nurturant Parent” morality with a conservative “Strict Father” morality.¹²⁸ “In the Strict Father model of the family, the father is the parental authority who sets strict rules for what counts as right and wrong. . . . Strict Father morality requires that there are natural, strict, uniform, unchanging standards of behavior that must be followed if

¹²⁴ See LAKOFF, DON’T THINK, *supra* note 74, at 17 (“There are certainly cases where conservatives have lied. . . . However it is equally important to recognize that many of the ideas that outrage progressives are what conservatives see as truths – presented from their point of view.”).

¹²⁵ LAKOFF, MORAL POLITICS, *supra* note 121 at 147.

¹²⁶ *Id.* at 321 (“Pathological stereotyping may serve self-righteousness and propaganda, but it misses all moral understanding.”).

¹²⁷ *Id.* at 19 (emphasis added).

¹²⁸ *Id.* at 13.



society is to function.”¹²⁹ The system is then rule-based and provides clarity and certainty as to norms. “Self-discipline, self-reliance, and respect for legitimate authority” are crucial.¹³⁰ The Strict Father model has direct implications for social policy, ranging from attitudes toward crime¹³¹ to stances on foreign policy. In foreign policy, for example, the United States should itself act as the Strict Father: it knows what is right, knows what is the right thing to do, and has the moral authority to require right action from others and the power to enforce this right behavior.¹³² Conservative political activists can promote voters’ receptivity to the Strict Father model in times of war or terror,¹³³ and they can also move those perhaps not previously inclined to economic conservatism by appeal to the Strict Father morality found in these individuals’ own personal or religious lives.¹³⁴ Lakoff spends similarly many pages on the liberal Nurturant Family¹³⁵ and its model of parental care and communication that lead children to become responsible adults.¹³⁶ He argues that liberals “do not fully comprehend the moral unity of their own politics and the role that the family plays in it,”

¹²⁹ *Id.* at 90.

¹³⁰ *Id.* at 66 (discussing specifically individual growth).

¹³¹ *See, e.g., id.* at 90.

¹³² *See* LAKOFF, DON’T THINK, *supra* note 74, at 10; LAKOFF, MORAL POLITICS, *supra* note 121, at 413.

¹³³ LAKOFF, DON’T THINK, *supra* note 74, at 42. A question here is whether one of the reasons some conservative politicians have promoted, for example, the war in Iraq is for the instrumental purpose of inculcating further voter attachment to a Strict Father political model.

¹³⁴ *See id.* at 87; LAKOFF, MORAL POLITICS, *supra* note 121, at 16.

¹³⁵ *See id.* at 108-40.

¹³⁶ *See, e.g., id.* at 108-09.



and they do not appreciate that this model must be developed politically for there to be any national future of liberal political success.¹³⁷

Lakoff's model of analysis helpfully defines elements of a positive conservative ideological identity. By contrast, Ricoeur's theory of ideology does not much attend the details of a liberal or conservative ideology but is instead oriented toward grounding the theory of ideology in general. While Lakoff's theory rests on sociological and linguistic emphases about family structure,¹³⁸ Ricoeur's theory goes beyond Lakoff's in its very attention to ideology as a political phenomenon. Further, Ricoeur provides a linkage between the three dimensions of ideology – as distortion, legitimation, and identification or integration – while Lakoff discusses only the first and third and discusses them separately. Ricoeur's attention to the question of the legitimacy of authority and the seemingly inextricable role of charismatic qualities in any form of legitimate authority¹³⁹ deepens Lakoff's assessment of the political “father” figure. Ricoeur's discussion of the religious overtones of authority being charismatic – it is godlike, exemplary¹⁴⁰ – extends beyond Lakoff the dimensions of both the claims to truth and belief in the truth of that political father. Finally, it is provocative that

¹³⁷ *Id.* at 18-19. Thomas Frank is very much in agreement. The failure of liberals to persuade voters of the merits of the liberal model “deserves a large part of the blame” for recent conservative success. FRANK, WHAT'S THE MATTER, *supra* note 31, at 242.

¹³⁸ He only briefly uses the vocabulary of ideology. See LAKOFF, MORAL POLITICS, *supra* note 121, at 14-16 (describing the coherence of conservative and liberal ideologies).

¹³⁹ See *supra* text accompanying note 63.

¹⁴⁰ See *supra* text accompanying note 64.



for Ricoeur the charismatic qualities of authority apply across all claims to power,¹⁴¹ including both liberal and conservative.

My ultimate concern, though, lies less with differences between Lakoff and Ricoeur than with what they hold in common: that political identity rests at bottom not on economic self-interest but on what for Ricoeur are the symbolic structures of individual and group integration¹⁴² and for Lakoff are “the moral, mythic, and emotional dimension of politics.”¹⁴³ Why is it a surprise to people like Thomas Frank that many voters do not cast votes simply on the basis of economic self-interest? A critique of Frank’s book asks in the form of satire: isn’t it baffling that upper class voters from New York City’s Central Park West voted in the 2004 presidential election not in favor of the (Republican) candidate who offered them tax cuts but overwhelmingly in favor of the (Democratic) candidate who would have taken them away?¹⁴⁴ Isn’t much of the liberal ideology in favor of civil rights an argument that Whites should *give up* some economic benefits to allow others to be at the political table, and isn’t much of the continuing travails of the movement for civil rights a result of a number of Whites being willing to pay an economic *cost* – in the form of flight to the suburbs or placement of their children in private schools¹⁴⁵ – to maintain certain ideological values of racial

¹⁴¹ See *supra* text accompanying note 67.

¹⁴² See *supra* text accompanying notes 95-97.

¹⁴³ LAKOFF, MORAL POLITICS, *supra* note 121, at 19.

¹⁴⁴ See Walter Shapiro, *What’s the Matter with Central Park West?*, ATLANTIC MONTHLY, Mar. 2005, at 46.

¹⁴⁵ See, e.g., RICHARD POSNER, ECONOMIC ANALYSIS OF LAW 717-19 (5th ed. 1998) (making this argument).

identity?¹⁴⁶ May we not generalize to the recent history of nationalist, ethnic, and religious conflicts? As Raymond Aron wrote in 1958, in the context of criticizing the war between his native France and its then-colony Algeria: “We would have to deny the experience of the century to believe that men will sacrifice their passions for their interests.”¹⁴⁷ In our more modest context, Democrats must understand the ideological bases of identity in order to comprehend, combat, and form an alternative to what has been the development of a very effective conservative ideological identity.

IV. Ideology and Utopia

There is a final characteristic of ideology as integrative that deserves separate attention: its definition of success over historical time. My inquiry here is sparked by Frank’s depiction of conservative ideology as “a crusade in which one’s material interests are suspended in favor of vague cultural grievances that are all-important and yet incapable of ever being assuaged.”¹⁴⁸ This brief comment summarizes the two main points of Frank’s critique. First, lower and middle class conservatives vote against their economic interest in favor of noneconomic norms. Part III tried to make sense of the potential viability of this orientation toward a positive ideological identity and argued its relevance for both liberals and conservatives. Frank’s second criticism is that the

¹⁴⁶ See *supra* text accompanying note 106 (discussing Derrick Bell’s thesis that many Whites assert a property right in Whiteness). More generally, economists are starting to discuss how identity – as a form of “*nonpecuniary motivation*[.]” – can *affect* economic outcomes, rather than just simply the reverse. See, e.g., George A. Akerlof & Rachel E. Kranton, *Economics and Identity*, 115 Q.J. ECONOMICS 715, 748 (2000) (emphasis added). For example, women upsetting prevalent norms of gender identity by working in traditionally male occupations may receive less assistance from their male coworkers, creating economic disutility. *Id.* at 723.

¹⁴⁷ RAYMOND ARON, L’ALGÉRIE ET LA RÉPUBLIQUE 37 (1958) (“Il faut nier l’expérience du siècle pour croire que les hommes sacrifient leurs passions à leur intérêt.”) (my translation).

conservative norms are “incapable of being assuaged.” For example, anti-abortion activists Frank has talked with acknowledge that abortions won’t end “without a fundamental shift on the Supreme Court” in the indefinite future.¹⁴⁹ When we find lower and middle class conservatives organizing to advance social goals that will not be achieved and at the same time voting to advance Republican economic goals that will disserve their economic interests, this for Frank is the distortive conservative ideology.

In my view, Frank not only fails to address the positive nature of ideological norms, he also fails to comprehend how political activists – of both right and left – can intelligently respond to his criticism that an ideology fails because its goals are not capable of apparent achievement. If on the issue of the potentially positive character of ideology his perspective is limited because it prioritizes economic self-interest over an integrative ideology, on the issue of an ideology’s success his perspective is again limited because it touts present “fact” over ideology. Two responses are available to this latter claim; the first addresses the issue of success in the short-term, the second in the long-term. As to the first, an ideology’s lack of success in the near term is not fatal in the views of its adherents, because the activists believe they are nevertheless doing the right thing. They are acting with integrity, in consistency with more transcendent norms.¹⁵⁰ In discussing his

¹⁴⁸ FRANK, WHAT’S THE MATTER, *supra* note 31, at 121. For a prior quotation of this passage, see *supra* text accompanying note 99.

¹⁴⁹ *Id.* at 96. Because we are currently faced with the ascension of two new Justices to the Court, this shift may possibly arise in within a more immediate historical future and reveal the inadequacy of Frank’s own sense of historical fact and possibility. Nevertheless, for the sake of unfolding the utopian aspects of ideological thinking, I retain Frank’s assumption that historical change of the type wanted by either strong liberals or strong conservatives is not soon forthcoming.

¹⁵⁰ Some activists, of course, believe they are in fact doing God’s work. *See, e.g., id.* at 95 (“The other side doesn’t have an agenda We have an agenda – the kingdom of God.”) (quoting

conversations with some conservative activists, Frank acknowledges this claim, but his rejoinder is sarcastic: “The O’Connors themselves may not stand to gain much from, say, a cut in top marginal income tax rates, but there is still joy in doing what is right, in being part of a movement that is advancing so robustly toward its goals.”¹⁵¹ By comparison, on the liberal left, Derrick Bell thinks that acting rightly is worth writing a book with the apt title *Ethical Ambition: Living a Life of Meaning and Worth*,¹⁵² and my colleague Jules Lobel has written his own book, again with the apt title of *Success Without Victory: Lost Legal Battles and the Long Road to Justice in America*.¹⁵³

Frank also fails to incorporate ideologies’ orientation toward success in the future, which is another aspect of the integrative role of ideology. In this case, Frank fails to comprehend how ideologies are potentially not undercut by present facts, because their fulfilment lies ahead in time. Ricoeur, for example, criticizes the sacralization of success; an idea may succeed in the short term not necessarily because it is good, and what history condemns now may return later to more

a conservative activist).

¹⁵¹ *Id.* at 172-73. The sarcasm of the comment is apparent in light of Frank’s denial that the conservative moment is advancing toward its social goals. *See supra* text accompanying note 140.

¹⁵² DERRICK BELL, *ETHICAL AMBITION: LIVING A LIFE OF MEANING AND WORTH* (2002). *See, e.g., id.* at 5 (“[M]y primary goal has been to live an ethical life That means I try to choose the ethical route even when defeat rather than success may wait at the end of the road.”). I address this component of Bell’s work and life at greater length elsewhere. *See* Taylor, *Racism as “The Nation’s Crucial Sin,” supra* note 106, at 284-85.

¹⁵³ JULES LOBEL, *SUCCESS WITHOUT VICTORY: LOST LEGAL BATTLES AND THE LONG ROAD TO JUSTICE IN AMERICA* (2003). *See, e.g., id.* at 7 (“Success inheres in the creation of a tradition, of a commitment to struggle, of a narrative of resistance that can inspire others similarly to resist.”); 266 (rejecting “the dominant American view that success and failure can be measured by short-term consequences”).

favorable reception.¹⁵⁴ The most dramatic examples of future-oriented ideologies¹⁵⁵ are messianic: in end times, the kingdom of God will arrive and overturn current materialistic and profane norms and oppressions. Conservative religious ideologies are of course the most prominent example of this orientation on the present political stage,¹⁵⁶ but there is a similar faith in the perdurance and sustenance of ultimate religious truths as over against existent reality in the work of Bell and the traditions of his enslaved ancestors.¹⁵⁷ Lobel, also writing from the left, speaks of a spirituality that is not messianic but “a faith in human potential [stemming] from a deeply Jewish identification with people’s suffering and resistance.”¹⁵⁸ In these diverse approaches, present facts are not determinative. We might as well speak, for example, of a *liberal* faith (not necessarily religious) in racial integration: a faith in a future that present facts also belie.¹⁵⁹ Liberals, who have despaired

¹⁵⁴ See RICOEUR, LECTURES, *supra* note 37, at 179.

¹⁵⁵ I trust it is apparent by this point that my use of the term “ideologies” in this context is nonpejorative and shorthand for integrative ideologies.

¹⁵⁶ See, e.g., *supra* note 150.

¹⁵⁷ See, e.g., DERRICK BELL, *FACES AT THE BOTTOM OF THE WELL: THE PERMANENCE OF RACISM* 195 (1992) (describing as the faith of these ancestors a belief that “evil and suffering were not the extent of their destiny – or of the destiny of those who would follow them”). For an argument that these sentiments appear also to reflect Bell’s own faith, see Taylor, *Racism as “The Nation’s Crucial Sin,” supra* note 106, at 319-20.

¹⁵⁸ LOBEL, *supra* note 153, at 48. At points throughout his book, Lobel remarks on the religious or spiritual faith of those litigating and organizing against existent norms. See, e.g., *id.* at 49 & 106.

¹⁵⁹ As is well known, Bell is very critical of this tenet of liberal political faith. The Supreme Court’s judgment in *Brown v. Board of Education*, 347 U.S. 483 (1954), requiring an end to state-sponsored segregation, is a decision society is “increasingly willing to commemorate, and less and less willing to follow.” BELL, *AFROLANTICA LEGACIES*, *supra* note 104, at 49. For Bell, the liberal ideology is distortive and inattentive to facts: racial integration is not occurring. He has long argued that in education the focus by Blacks should be on quality education rather than on the unavailing

over the conservative failure to face the facts,¹⁶⁰ must acknowledge that their own normative ideology does not so much refute present facts about the lack in particular of school integration but retains a faith in a different future where present facts will fall away.

The vocabulary of faith here – and its direct or analogous invocation of religious faith – may elicit greater receptivity to a nonpejorative ideology that is coherent and defensible in its orientation to the future rather than to determination by present fact. Ricoeur further enlarges the scope of the analysis of futurity by introducing the concept of *utopia* and discussing its interrelation with ideology.

The ruling symbols of our identity derive not only from our present and our past but also from our expectations for the future. . . . What I call the identity of a community or of an individual is also a prospective identity. The identity is in suspense. Thus, the *utopian* element is ultimately a component of identity. What we call ourselves is also what we expect and yet what we are not.¹⁶¹

A prospective identity is utopian; it is something that is not yet but may be.¹⁶² In the best sense of the term, a utopia explores the possible,¹⁶³ opens the possible,¹⁶⁴ “extends to the boundary line

school integration. See, e.g., Derrick A. Bell, Jr., *Serving Two Masters: Integration Ideal and Client Interests in School Desegregation Litigation*, 85 YALE L.J. 470 (1976).

¹⁶⁰ See *supra* text accompanying notes 39-44.

¹⁶¹ RICOEUR, LECTURES, *supra* note 37, at 311 (emphasis added). Broadening the analysis even further, Ricoeur describes the role of utopia as *imaginative* and contends that the role of imagination here is *constitutive* of identity. *Id.* Ricoeur engages in a more detailed elaboration of a theory of imagination in his lectures on that subject, see Paul Ricoeur, *Lectures on Imagination* (1975) (unpublished lectures, transcription on file with author), and I explore those lectures at greater length elsewhere. See George H. Taylor, *Legal Consciousness and Ricoeur’s Theory of Imagination* (2005) (manuscript on file with author).

¹⁶² As an attention to what *may* be, the utopian is broader than faith, which believes in what *will* be.

¹⁶³ RICOEUR, LECTURES, *supra* note 37, at 310.



between the possible and the impossible.”¹⁶⁵ From its perspective as the “elsewhere,”¹⁶⁶ the utopian offers a perspective allowing critique of the existing order.¹⁶⁷ In opening up the possible, the utopian can also act to shatter the present order.¹⁶⁸ The utopian can provide to a society new goals.¹⁶⁹ “We speak of humanity not only as a species but as in fact a task, since humanity is given nowhere. The utopian element may be the notion of humanity that we are directed toward and that we unceasingly attempt to bring to life.”¹⁷⁰ Criticism of an integrative ideology – whether conservative or liberal – on the basis of existing facts is insufficient, because this criticism misses the aspirational, prospective element of an integrative ideology, an element that anticipates, opens itself to, and works for the realization of possibilities that may transform existing facts.¹⁷¹

If the best side of utopia – its exploration of the possible – aligns itself with the best side of ideology – as integrative – so can other traits of utopia parallel ideology’s other two general characteristics, as legitimation and as distortion. Ideology as legitimation can be matched with utopia’s efforts to offer “alternative ways to deal with authority and power,”¹⁷² whether as alternative

¹⁶⁴ *Id.* at 182.

¹⁶⁵ *Id.* at 253.

¹⁶⁶ *See id.* at 17.

¹⁶⁷ *See id.* at 55.

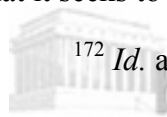
¹⁶⁸ *Id.* at 179.

¹⁶⁹ *Id.* at 283.

¹⁷⁰ *Id.* at 253.

¹⁷¹ Note that a conservative utopia that wants to restore the past is still utopian in the sense that it seeks to open future possibilities in order to transform the present. *See, e.g., id.* at 275.

¹⁷² *Id.* at 179.



forms of powers or alternatives to power altogether.¹⁷³ If the pathology of ideology is distortion, “the pathology of utopia is escape,” the creation of a complete gap between the present and the future that allows the utopia to rid itself of the complexities of political decision, authority, and power.¹⁷⁴ In this utopia, all goals are possible and compatible.¹⁷⁵ Utopia here is fancy, something completely impossible, unrealizable.¹⁷⁶

The traits of ideology and utopia can also be juxtaposed in order to correct each other. Utopia as the possible can shatter the complacency of an existing ideology that is content with what is and perhaps unable to conceive any better future for humanity elsewhere.¹⁷⁷ Where ideology acts to add the surplus-value to belief that legitimates the present system of order, utopia can “unmask[] this surplus-value” and offer alternate ways to govern.¹⁷⁸ Similarly, though this is not a direction Ricoeur himself pursues, ideology can pose the tested traditions and hard-won compromises of an existing order against the untested and perhaps fanciful possibilities of political authority, judgment, and power offered by a utopia.¹⁷⁹

¹⁷³ *Id.* at 310.

¹⁷⁴ *Id.* at 17.

¹⁷⁵ *See id.* at 296.

¹⁷⁶ *Id.* at 310. *See also* Buruma, *supra* note 50, at 35 (“Dictators embark on great missions, while the plans of politicians are inevitably crippled by shabby compromises. This view has been shared by too many intellectuals in the past, who fell under the spell of absolute power. It is the fatal romanticism that justifies unlimited murder.”).

¹⁷⁷ *See id.* at 17.

¹⁷⁸ *Id.* at 298. *See also id.* at 192.

¹⁷⁹ Ricoeur’s tripartite division of utopia allows resuscitation of the term against more limited conceptions that are currently popular. In a recent article, for example, Edward Rothstein criticizes

For our purposes, analysis of utopia offers at least three insights. First, an ideology cannot be undermined simply because of its deviation from existing fact; those facts may change in the future. Second, liberal as well as conservative ideologies rest on something other than mere fact; both express certain faiths that go beyond present fact, both project prospective identities, both exhibit utopian elements. Third, criticism of an ideology cannot rest on its opposition to existing reality, present fact. Not only is an ideology prospective, and so resistant to subsumption under present facts, but an ideology incorporates facts within its larger symbolic structure. At bottom, an ideology rests on its symbolic structure, and facts are but elements within this symbolic structure. I develop the larger implications of ideology as a symbolic structure in the Part that follows.

V. Ideology as a Symbolic Structure

To explore the dimensions of ideology as a symbolic structure, we return to the primordial argument in Ricoeur's theory of ideology: "[T]here is no social action which is not already

invocation of utopia, because of its escapist quality: it is absolutist and "must stand outside of earthly history." Edward Rothstein, *Well, Wouldn't It Be Pretty to Think So?*, N.Y. TIMES, Aug. 15, 2005, at B6. "When commentators call the push for democratic transformation in the Middle East utopian," he adds, "they do not mean that it provides an ideal toward which reformers can aim; they mean it is a hopeless, unrealistic goal for American policy." *Id.* Others have charged that the call for free market globalization is utopian. See, e.g., John Gray, *The World is Round*, N.Y. REV. OF BOOKS, Aug. 11, 2005, at 13 (arguing that what is needed in this context "is the opposite of the utopian imagination"); Greider, *supra* note 86, at A23 (arguing that "the American establishment is enthralled by utopian convictions – the market orthodoxy of free trade globalization"). In a recent U.N. report, it was thought sufficiently important to assert: "The United Nations was never intended to be a utopian exercise. It was meant to be a collective security system that worked." U.N. PANEL REPORT, *supra* note 50, at 4, 77 (same). In all these characterizations, utopia is an escape, something unable to address the hard tasks of decisions and detail, but they miss the positive element of utopia as possibility. The term unfortunately no longer retains its sense, as Rothstein puts it, of an ideal. See Rothstein, *supra*. For Ricoeur the most critical element of utopia is not its realizability but its ability to preserve a distance between itself as the possible or ideal and reality. See RICOEUR,

symbolically mediated. . . . [S]ymbolic systems belong already to the infrastructure, to the basic constitution of human being.”¹⁸⁰ Human action is immediately and always infused with cultural patterns and meanings.¹⁸¹ Without a symbolic structure to social life, we would be unable to project our activities into ideas or understand how our activities can create illusions.¹⁸² It is only because human social life is symbolically structured that it can become distorted.¹⁸³ “[A] symbolic structure of action . . . is absolutely primitive and ineluctable.”¹⁸⁴

Lakoff agrees that this ineluctable symbolic structuring of human activity derives from the very nature of human cognition. Our categorization process does not originate in formal, logical divisions but in imaginative structures such as metaphor. Lakoff and his frequent collaborator Mark Johnson describe conceptual metaphor as “what makes most abstract thought possible [I]t is the very means by which we are able to make sense of our experience.”¹⁸⁵ Radial categories, for

LECTURES, *supra* note 37, at 180.

¹⁸⁰ *Id.* at 258. For a prior quotation of this passage, see *supra* text accompanying note 98.

¹⁸¹ *See id.* at 12.

¹⁸² *See id.* at 8.

¹⁸³ *Id.* at 10.

¹⁸⁴ *Id.* at 77.

¹⁸⁵ GEORGE LAKOFF & MARK JOHNSON, PHILOSOPHY IN THE FLESH: THE EMBODIED MIND AND ITS CHALLENGES TO WESTERN THOUGHT 129 (1999) [hereinafter LAKOFF & JOHNSON, PHILOSOPHY IN THE FLESH]. For an earlier well-known collaboration, see GEORGE LAKOFF & MARK JOHNSON, METAPHORS WE LIVE BY (1980). I analyze in greater detail elsewhere the theses here of Lakoff and Johnson. See George H. Taylor, *Cognitive Theory, Conscience, and Law*, 6 GRAVEN IMAGES: STUDIES IN CULTURE, LAW, AND THE SACRED (forthcoming 2006) [hereinafter Taylor, *Cognitive Theory*].

example, are not deductive derivations of a prior general principle but divergent extensions.¹⁸⁶ Lakoff and Johnson's approach to categorization derives from cognitive theory, the science of the brain and mind. Conceptual categorization is tied to the framing process that occurs in the synaptic operation of the brain.¹⁸⁷ A fact is understood not as an independent idea but only as our conceptual framing is able to address and incorporate the idea.¹⁸⁸ What is foundational is not the fact but the framing.¹⁸⁹

It is essential to comprehend the consequences of the symbolic structure of action for the portrayal of ideology. We humans do not find ourselves confronted first with the facts of social life and then construct ideas – an ideology – about them. Rather social life “incorporates an ideological layer”; the ideological layer is a component of social life itself.¹⁹⁰ The relationship between ideology and social life is not fundamentally one of opposition – ideology as a distortion of social life – but of

¹⁸⁶ LAKOFF & JOHNSON, *PHILOSOPHY IN THE FLESH*, *supra* note 185, at 177-78.

¹⁸⁷ *See, e.g., id.* at 57 (“[P]rimary metaphor . . . is a matter of immediate conceptual mapping via neural connections.”). Ricoeur has himself engaged in discussion about the contributions of cognitive theory, although that discussion did not directly address the categorization model of human cognition. *See* JEAN-PIERRE CHANGEUX & PAUL RICOEUR, *WHAT MAKES US THINK? A NEUROSCIENTIST AND A PHILOSOPHER ARGUE ABOUT ETHICS, HUMAN NATURE, AND THE BRAIN* (2000).

¹⁸⁸ *See, e.g.,* LAKOFF, *DON'T THINK*, *supra* note 74, at 17.

¹⁸⁹ *See id.* at xv (“Frames are mental structures that shape the way we see the world. . . . In politics our frames shape our social policies and the institutions we form to carry our policies.”).

¹⁹⁰ RICOEUR, *LECTURES*, *supra* note 37, at 223.



an “inner connection.”¹⁹¹ Ideology is not epiphenomenal or derivative but rather has *materiality*; it is a nonremovable aspect of human action.¹⁹²

The inextricability within social life of ideology and the symbolic structure of action is further explained and defined when we contemplate an ideology’s ability to *motivate*.¹⁹³ On the one hand, motivation entails something more than an understanding of fact; it requires an understanding of the fact within a symbolic structure, that is, a conceptual framework,¹⁹⁴ an interpretive understanding.¹⁹⁵ Second, motivation involves not just acceptance or not of fact but *persuasion*.¹⁹⁶ This dynamic is perhaps best exemplified in the discussion of power. As we have seen, political power operates not simply by means of force.¹⁹⁷ It also seeks to establish its legitimacy. It asserts a *claim* of legitimacy and seeks to *motivate* the populace to *believe* in its legitimacy.¹⁹⁸ Motivation is intrinsic to the claim to and belief in an authority’s legitimacy; an authority’s power rests not only on

¹⁹¹ *Id.* at 10.

¹⁹² Part of Ricoeur’s argument in the *Lectures* is a rejection of the traditional Marxist view that distinguishes economics as basic (infrastructural) and ideas as derivative (superstructural). *See, e.g., id.* at 152-53. Elsewhere I defend more directly the materiality of cognition. *See* Taylor, *Derrick Bell’s Narratives*, *supra* note 106.

¹⁹³ Ricoeur’s discussion of motivation draws upon the work of Weber. *See, e.g.,* RICOEUR, *LECTURES*, *supra* note 37, at 186-87.

¹⁹⁴ *See id.* at 120-21.

¹⁹⁵ *See id.* at 186.

¹⁹⁶ *See id.* at 134.

¹⁹⁷ *See supra* text accompanying notes 49-51.

¹⁹⁸ *See id.* at 154 (“For Weber the problem of domination [i.e., political authority] implied a system of motives wherein the claims to legitimacy of an authority attempt to meet the capacity of belief in this legitimacy.”).

its force or its marshaling of facts but on its ability to persuade, to create an ideology in which people believe.¹⁹⁹

Political judgment may proceed, but as Lakoff maintains, “the truth alone will not set you free.”²⁰⁰ Provision of facts is insufficient; the truths must be framed effectively.²⁰¹ We cannot extricate ourselves from ideology and the symbolic structuring of social life. We must understand the ineradicable role of rhetoric, affect, motivation, and persuasion in social life as well.²⁰² Liberal reliance on a claim to reason will not go far enough. The point is not simply that social life operates in a manner that situates reason within a larger ideological framework. Liberals need to realize that their own discourse derives, as Lakoff elucidates,

from an Enlightenment tradition of supposedly literal, rational, issue-oriented discourse, a tradition of debate using “neutral” conceptual resources. . . . If liberals are to create an adequate moral discourse to counter conservatives, they must get over their view that all thought is literal and that straightforward rational literal debate on an issue is always possible. That idea is false – empirically false – and if liberals stick to it they will have little hope of constructing a discourse that is a strong moral response to conservative discourse.²⁰³

¹⁹⁹ We add to the affective dimension of ideology when we recognize that an ideology’s ability to motivate may also act on us subconsciously. *See id.* at 229.

²⁰⁰ LAKOFF, DON’T THINK, *supra* note 74, at 33. *See also id.* at 115 (“The facts unframed will not set you free. . . . Frames trump facts. . . . Always reframe.”).

²⁰¹ *See id.* at 33.

²⁰² This contention joins other recent analysis linking affect and reason. *See, e.g.*, ANTONIO DAMASIO, DESCARTES’ ERROR: EMOTION, REASON, AND THE HUMAN BRAIN (1994); MARTHA C. NUSSBAUM, UPHEAVALS OF THOUGHT: THE INTELLIGENCE OF EMOTIONS (2001).

²⁰³ LAKOFF, MORAL POLITICS, *supra* note 121, at 387. That rational literal debate is empirically false owes to Lakoff’s (and others’) work in cognitive theory on metaphors and framing and on other scholarship such as in decision theory. *See, e.g., id.* at 373 (citing work by Daniel Kahneman and Amos Tversky); LAKOFF, DON’T THINK, *supra* note 74, at 18 (same). An analogy could be drawn to work in behavioral law and economics that shows that people often decide not on

Liberals also need to discern that their own stance is not simply one of reason but is ideological itself.²⁰⁴ Finally, because “truth” does not equate with political victory, liberals need to acknowledge the role of organization both in generating ideas and frames and in motivating voters to vote for them.²⁰⁵ On election day 2004, for example, I was continuously impressed by the value of organizing in motivating voters (and Democratic challengers) to go to the polls.

Lakoff and Ricoeur share much in their criticism of the insufficiency of political models based on appeals to right reason or economic self-interest. Lakoff argues that liberals can counter

the basis of reason but on the basis of loss aversion, self-serving bias, heuristic biases, and so on. *See, e.g.*, Cass R. Sunstein, *Behavioral Analysis of Law*, 64 U. CHI. L. REV. 1175 (1997). But this analysis differs from the approach to ideology advanced in this Article, because while it wants to address the actuality of these decisional processes, it appears to view this non-rationalistic reasoning as simply distortive. *See, e.g.*, Cass R. Sunstein, *Cognition and Cost-Benefit Analysis*, 29 J. LEGAL STUD. 1059, 1065 (2000) (“Why, exactly, might people’s judgments about risk and risk regulation go badly wrong?”). In recent work, Owen Jones has related evolutionary biology to behavioral law and economics to suggest that behaviors that may be maladaptive now may have been adaptive in our evolutionary human past. *See* Owen D. Jones, *Time-Shifted Rationality and the Law of Law’s Leverage: Behavioral Economics Meets Behavioral Biology*, 95 Nw. U. L. Rev. 1141, 1172 (2001). It is notable that Jones insists that the current behavior is “substantively irrational or maladaptive.” *Id.* (I thank David Herring for mentioning Jones’s article.) For those liberals who might reject the ineluctability of ideology, it might perhaps be possible nevertheless to accept that many in current political practice do operate ideologically and then proceed instrumentally, as behavioral law and economists do, to assess political strategy in light of this reality rather than insist that people behave “rationally.”

²⁰⁴ *See supra* text accompanying note 159.

²⁰⁵ Frank criticizes: “While leftists sit around congratulating themselves on their personal virtue, the right understands the central significance of movement-building, and they have taken to the task with admirable diligence.” FRANK, WHAT’S THE MATTER, *supra* note 31, at 247. He recounts in some detail examples of the conservative organizing that has occurred in Kansas. *See, e.g., id.* at 93-94, 175. He also notes the institutional work of conservatives nationwide to develop and broadcast their message: for example, the creation of counterinstitutions, alternative professional organizations, think tanks, and magazines. *See id.* at 195. Lakoff cites reports stating that those on the right spent over a billion dollars in the 1990s to support conservative think tanks and that they outfund liberal think tanks and other organizations by a ratio of four-to-one. *See* LAKOFF, MORAL POLITICS, *supra* note 121, at 416.

conservatives by reframing political discourse away from conservative models. Ricoeur's vocabulary concentrates on the terms of ideology and the symbolic structuring of action. Both Lakoff and Ricoeur agree that the frames or ideologies of opponents should not be simply demonized; these ideologies hold for their adherents much of positive integrative value. Ideological distortions may be addressed; this is not an attempt to launch reason against ideology but to attempt either to show an ideology's inner contradictions – its noncoherence – or the greater persuasiveness of an alternative ideology. Arguments of apparent fact against an ideology may often fail, because an ideology weaves a larger frame, built on larger notions of rationale and on elements of belief and faith.

Ricoeur's theory of ideology goes beyond Lakoff's approach, I believe, in at least two ways. First, he introduces as Lakoff does not an analysis of the legitimacy of authority and of the relationship between an authority's claim to authority and the citizenry's belief in that authority. While both Ricoeur and Lakoff attend the nature of human cognition, Ricoeur's analysis here adds a more specific political dimension to the discussion of ideology. Lakoff's theory of framing remains more tied to cognitive theory.²⁰⁶ Ricoeur's analysis of the gap between claim and belief also provides greater insight than does Lakoff into how an ideology can fail: the gap can become too big, and claim and belief may become disjoined.

Second, Ricoeur locates the remaining availability of political dispute and judgment not in a contention of frame versus frame, as Lakoff does, but in the dispute between ideology and utopia. Ideology is in this sense something that preserves the current identity of an individual or group, while

²⁰⁶ As I have argued elsewhere, Lakoff's theory does generally offer greater precision than Ricoeur in the understanding of how the metaphoric capacities of the mind function. See Taylor,

utopia “claims to assume a better future for humanity,”²⁰⁷ it claims new possibilities.²⁰⁸ “[W]e must try to cure the illnesses of utopia by what is wholesome in ideology – by its element of identity, which is once more a fundamental function of life – and try to cure the rigidity, the petrification, of ideologies by the utopian element.”²⁰⁹ Conservative and liberal stances may have within each both ideological and utopian characteristics. The *positive ideological* aspect of one – its integrative function – will criticize what it views to be the *negative utopian* aspect of the other – its flight into fancy.²¹⁰ As merely illustrative examples, the positive conservative ideology of equal opportunity will criticize the liberal utopian “fancy” of equality of outcome, while the positive liberal ideology of the regulated state will criticize the conservative utopian “fancy” of the free market. Conversely, the *positive utopian* aspect of one – its sense of real possibility – will criticize the *negative ideological* aspect of the other – its hidebound maintenance of outmoded norms. Again to be simply suggestive,

Cognitive Theory, *supra* note 185. For an important exception to this generality, see *infra* note 208.

²⁰⁷ RICOEUR, LECTURES, *supra* note 37, at 173.

²⁰⁸ An ideological structure may then have, in the narrower senses just used, both ideological and utopian components. Henceforth, when referring to an ideology as inclusive of both narrower elements, I shall use the term of an ideological framework.

²⁰⁹ *Id.* at 312.

²¹⁰ Less broadly, we find in campaign rhetoric battles between tradition (ideology) and possibility (utopia). Some voters may find the promises of possibility offered by one candidate more alluring than the tradition (existing reality) offered by another, while other voters may find more reliable the tradition offered by one candidate versus the possibilities whose realities are uncertain offered by another. In the 2004 presidential election, for example, at a time when the country was engaged in a war with Iraq, a number of voters voted in favor of the known quantity of the incumbent, President Bush, versus the uncertain possibilities offered by his challenger, John Kerry. See, e.g., Kate Zernike & John M. Broder, *The 2004 Elections: The Electorate – The Mood of the Electorate; War? Job? No, Character Counted Most to Voters*, N.Y. TIMES, Nov. 4, 2004, at P1 (asserting that character was the primary criterion used by most presidential voters but that the war also played a role in many’s decision to vote in favor of President Bush).

the prospective conservative utopian virtues of a global free market will criticize the liberal adherence to a heavily regulated domestic labor market (e.g., unionized labor law), while the prospective liberal utopian virtues of a more inclusive definition of the family will criticize the conservative adherence to a definition of the family as headed by two heterosexual parents. As apparent – and as I have argued throughout – what one ideology may view as integrative (e.g., the deference to be granted the market), the other ideology may view as distortive.

The dialectic of ideology and utopia is not simply a clash of ideological frame versus ideological frame (and certainly not one merely of fact versus fact). Ideology and utopia are offset; they bring out different valences in an ideological framework. They also each can persuade. How? I have already adverted to the roles played by motivation, affect, and belief.²¹¹ But here I want to concentrate more finely on how a conceptual framework such as an ideology can be transformed. A clue, I think, lies in Ricoeur's frequent intonation that a utopia can "shatter" a given order.²¹² I am struck that Ricoeur also describes metaphors as shattering a given order.²¹³ In his work on metaphor, Ricoeur attends the "rifts" metaphor creates in a given order, the way it "disturbs and displaces" order.²¹⁴ Metaphor shatters the given order in order to present a new order.²¹⁵ Metaphor "break[s]

²¹¹ See *supra* text accompanying notes 193-99, 202.

²¹² Ricoeur originally draws the term "shatter" from Karl Mannheim, whom Ricoeur quotes as defining utopia as that which tends "to shatter, either partially or wholly, the order of things prevailing at the time." RICOEUR, LECTURES, *supra* note 37, at 173, quoting KARL MANNHEIM, IDEOLOGY AND UTOPIA 192 (Louis Wirth & Edward Shils trans., 1936) [Harvest Books ed.]. But in Ricoeur's frequent repetition of the term to describe utopia, see, e.g., RICOEUR, LECTURES, *supra* note 37, at 175, 179, 273, 285, 289, 309, Ricoeur makes the word his own.

²¹³ Paul Ricoeur, *Creativity in Language*, in THE PHILOSOPHY OF PAUL RICOEUR 120, 132 (1978) [hereinafter Ricoeur, *Creativity*].

²¹⁴ PAUL RICOEUR, THE RULE OF METAPHOR: MULTI-DISCIPLINARY STUDIES OF THE

through previous categorization and . . . establish[es] new logical boundaries on the ruins of the preceding ones.”²¹⁶ Utopias can create metaphoric transformations in an ideological framework. For example, consider the Administration’s failures to respond timely and adequately to the damages of Hurricane Katrina and its efforts to locate responsibility elsewhere.²¹⁷ A reinvigorated liberal ideal could speak to the positive role of assistance that government may and should provide, and this might help shatter the prevailing ideology that rejects that government plays any positive domestic function. Ideologies in turn can resist utopias on the claim that the metaphoric transformation does not work: the utopian possibilities are not real or functional or create too much dislocation or are simply fanciful. Will social conservatives come to view as fanciful the President’s assertion that he is one of them in light of his nomination to the Supreme Court of Harriet Miers?²¹⁸ Ideologies can change or not metaphorically on the same basis as their order is constituted, that is, metaphorically or symbolically.²¹⁹ This is but to reiterate the nature of an ideology’s composition and that this

CREATION OF MEANING IN LANGUAGE 22 (Robert Czerny trans., 1977) [hereinafter RICOEUR, THE RULE OF METAPHOR].

²¹⁵ *Id.*

²¹⁶ Ricoeur, *Creativity*, *supra* note 213, at 131. Ricoeur’s attention to metaphor as shattering and transformative constitutes another signal difference between his work and Lakoff’s. Lakoff and Johnson insist that novel metaphors do not transform but rather follow the *same* mapping as prior primary metaphors. *See, e.g.,* LAKOFF AND JOHNSON, PHILOSOPHY IN THE FLESH, *supra* note 185, at 66-67. Because of this emphasis, they do not seem able to explain how ideological change can occur other than as a contest between frame and frame. Elsewhere I pursue further some of the implications of this difference between Ricoeur and Lakoff and Johnson in their theories of metaphor. *See* Taylor, *Cognitive Theory*, *supra* note 185.

²¹⁷ *See supra* text accompanying note 82.

²¹⁸ *See supra* text accompanying note 84.

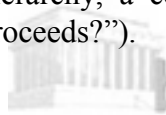
²¹⁹ RICOEUR, THE RULE OF METAPHOR, *supra* note 214, at 22 (“[C]ould we not imagine that

composition may be challenged and transformed not so much by fact as by an alternate metaphoric ideological framework.

Conclusion

On election day 2004, I witnessed at firsthand the passion to vote demonstrated by the voters of Cleveland's Ward 14. To be able to marshal that passion in the future, not only in urban Cleveland but in greater areas nationwide, Democrats need to understand as Republicans already do the degree to which voters decide to cast their ballot not out of simple economic self-interest or on the basis of mere fact. Along with continued voter mobilization, the revival of a theory of ideology – not just as distortion but as legitimacy and as identification – will help the political parties to impassion more voters both to vote and to vote on behalf of their goals. Understanding a theory of ideology will also assist the subtlety by which election law analysis investigates and assesses voter motivation.

the [metaphoric] process that disturbs and displaces a certain logical order, a certain conceptual hierarchy, a certain classification scheme, is the same as that from which all classification proceeds?”).



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